

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

ANTHONY CHALK,

Case No. 3:18-cv-00845-MK
ORDER

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondant.

AIKEN, District Judge:

Magistrate Judge Jolie Russo filed her Findings and Recommendation (“F&R”) (doc. 4) recommending that the Petition for Writ of Habeas Corpus should be dismissed (doc. 1). The matter is now before me. *See* 28 U.S.C. § 636(b)(1)(B) and Fed. R. Civ. P. 72(b). When either party objects to any portion of a magistrate judge’s F&R, the district court must make a *de novo* determination of that portion of the magistrate judge’s report. *See* 28 U.S.C. § 636(b)(1); *McDonnell Douglas Corp. v. Commodore Business Machines, Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981), *cert denied*, 455 U.S. 920 (1982).

I note that petitioner has submitted what he styles as a Motion to Amend (doc. 6). Petitioner dated this filing June 15, 2018, and it was filed on June 22, 2018, only one day outside

of the deadline for objections to the F&R. I construe the motion as a timely objection to the F&R's holding. However, based on a review of the F&R and the documents in the case, I find no error in Judge Russo's F&R. None of the new documents submitted petitioner undermines Judge Russo's analysis or conclusions.

Thus, I adopt Magistrate Judge Russo's F&R (doc. 4) in its entirety. Accordingly, the Petition is ordered DISMISSED, and a Certificate of Appealability is denied on the basis that petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

Dated this 25th day of September, 2018.

A handwritten signature in black ink, appearing to read "Ann Aiken", is written over a horizontal line.

Ann Aiken
United States District Judge